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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES MICHAEL BIELA,

Petitioner,

V.

WILLIAM GITTERE, Warden, Ely State Prison, and AARON D. FORD, Attorney General of the State of Nevada.

Respondents.

Case No. 3:20-cv-00026-GMN-WGC

**STIPULATION AND ORDER TO
STAY FEDERAL PROCEEDINGS
PENDING EXHAUSTION OF STATE
REMEDIES**

DEATH PENALTY CASE

STIPULATION

Petitioner James Biela, through counsel Heather Fraley, Assistant Federal Public Defender, and Respondent William Gittere, et al, through counsel Heather Procter, Chief Deputy Attorney General, hereby stipulate as follows:

- On December 10, 2020, Mr. Biela filed his second habeas petition in the Second Judicial District Court of Nevada. On August 30, 2021, the same day he filed an amended petition in federal court, he filed an amended petition in state court. These state petitions were filed in an attempt to exhaust any unexhausted claims raised in federal court.
 - The parties agree that the federal proceedings should be stayed pending the conclusion of the second state exhaustion proceeding.
 - The parties agree that the exhaustion proceeding includes any appeal to the Nevada Supreme Court following resolution of the petition in the state district court, and that the proceeding is concluded once remittitur issues from that appeal.
 - The parties agree that Mr. Biela will file a status report regarding the progress of the exhaustion proceeding on December 15, 2021, and every six months thereafter until the proceeding is concluded. Respondents may, if necessary, file and serve a response to any such status report within 15 days after its service. If necessary, Mr. Biela may then file a reply within 15 days of service of the response.

- The parties agree that Mr. Biela will file a motion to reopen the federal proceeding within thirty days of the conclusion of the state exhaustion proceeding.
 - The parties agree that Respondents do not, by stipulating to the instant stay, waive any arguments as to exhaustion, timeliness, procedural default, or other potential procedural defenses as to any federal petition Mr. Biela already filed or may file in the future.

DATED this 15th day of September 2021

RENE L. VALLADARES
Federal Public Defender

/s/ Heather Fraley
HEATHER FRALEY
Assistant Federal Public Defender

AARON FORD
Nevada Attorney General

/s/ Heather Procter
HEATHER PROCTER
Chief Deputy Attorney General

IT IS SO ORDERED

~~U.S. District Judge Gloria Navarro~~

DATED Sept 16, 2021